

## Surface Mining Reclamation and Enforcement, Interior

## § 917.15

the Secretary recommends the change be made.

(a)–(p) [Reserved]

[47 FR 21434, May 18, 1982, as amended at 49 FR 33247, Aug. 22, 1984; 49 FR 37587, Sept. 25, 1984; 50 FR 8610, Mar. 4 1985; 50 FR 23003, May 30, 1985]

### § 917.12 State regulatory program and proposed program amendment provisions not approved.

(a) The Director does not approve the following provisions of the proposed program amendment concerning permit renewals that Kentucky submitted on April 23, 1998:

(1) The phrase “\* \* \* if a permit has expired or \* \* \*” in KRS 350.060(16).

(2) The following sentence in KRS 350.060(16): “Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.”

(b) Subsections (2) through (6) of the amendment submitted as House Bill 599 on May 9, 2000, are hereby not approved, effective June 20, 2001.

(c) The amendment submitted by letter dated April 12, 2002, proposing a new section of the Kentucky Revised Statutes at Chapter 350 and referenced as Kentucky House Bill 405, is hereby not approved, effective November 20, 2002.

(d) The phrase “\* \* \* coal mining activities and \* \* \*” in KRS 350.445(3)(g) is not approved.

(e) The exemption from the engineer inspection requirements of subsection 9 for an impoundment with no embankment structure, that is completely incised, or is created by a depression left by backfilling and grading, that is not a sedimentation pond or coal mine waste impoundment and is not otherwise intended to facilitate active mining at section 1(9)(c) at 405 KAR 16/18:100 is not approved. The exemption from examination for an impoundment with no embankment structure, that is completely incised or created by a depression left by backfilling and grading but not meeting MSHA requirements at 30 CFR 77.216 or not meeting the Class B and C classifications at section

1(10)(b) is not approved to the extent that it is not implemented and managed in accordance with the provisions of OSM Directive TSR-2.

(f) The changes to Kentucky’s Notice of Assessment of Civil Penalties and Penalty Assessment Conference Officer’s Report that specify that prepayment of a proposed assessment or penalty is no longer required are not approved.

[65 FR 29953, May 10, 2000, as amended at 66 FR 33023, June 20, 2001; 67 FR 70009, Nov. 20, 2002; 68 FR 2199, Jan. 16, 2003; 68 FR 42274, July 17, 2003; 71 FR 54589, Sept. 18, 2006]

### § 917.13 State statutory and regulatory provisions set aside.

(a) The following provision of Kentucky Revised Statute at KRS 350.060(22) is inconsistent with section 701(28) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside effective December 1, 1985:

“(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.”

(b) [Reserved]

(c) The following portions of the Kentucky Revised Statute at KRS 350.060(16) are inconsistent with section 506 of SMCRA and less effective than 30 CFR 843.11 and are set aside effective September 6, 2000:

The specific wording is the phrase “if a permit has expired or . . .” and the following sentence:

Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

[50 FR 47728, Nov. 20, 1985, as amended at 65 FR 53911, Sept. 6, 2000]

### § 917.15 Approval of Kentucky regulatory program amendments.

(a) The following is a list of the dates amendments were submitted to OSM, the dates when the Director’s decision approving all, or portions of these amendments, were published in the

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**30 CFR Ch. VII (7–1–12 Edition)**

FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
May 28, 1982 .....	January 4, 1983 .....	405 KAR 1:005 § 6; 3:005 § 6; 7:020 § 1(11), (70), (117); 7:030 § 1; 7:040 § 5(1), 10(2), (7); 7:090 § 4(1), (6); § 6; 7:095, 8:010 § 6(1), (2), 13(1), 20(5), 21(2)(a)(4), (b)(1), 22(1), (2)(a), (a)(2), (2)(c)(1), (4), (5), (6); 8:020 § 2(2)(h); 8:030 § 23(4); 12:010 § 3(5)(a), (b); 16:140 § 2(1)(d); 18:140 § 2(1)(d); 24:020 § 3(5), (7), 4(6); 24:030 § 4(4), 8(7), 9.
May 28, 1982 .....	May 13, 1983 .....	KRS 151.250(3); 350.010, .035, .062(9), .093 § 2, .425, .990; 405 KAR 16:020 § 4.
January 11, 1983 .....	May 20, 1983 .....	405 KAR 7:020 § 1(13), (27), (34), (57); 12:010 § 6; 16:060 §§ 1(3), 9(2), 11(1), .090 § 2, 5(5), .110 § 2(2), .130 § 2(2), .220 § 4; 18:060 §§ 7(3), 9(1), (3), .090 §§ 2, 5(5), .110 2(2), .130 § 2(2), .230 § 4; 24:030 § 3.
February 1, 1983 .....	October 12, 1983 .....	Technical Reclamation Memorandum #9.
October 31, 1983 .....	November 25, 1983 .....	405 KAR 7:020E, .030E.
January 10, 1984 .....	April 13, 1984 .....	"Kentucky's Plan for Transition to Primacy".
May 1, 1984 .....	August 22, 1984 .....	KRS 350.010, .032, .093(2), .250(1), (3), (4); 355.060(5)(g).
October 31, 1983 .....	September 25, 1984 .....	405 KAR 1:030, .040, .050; 7:020, .030, .090; 8:030, .040; 16:060, .090, .140; 18:090, .140.
October 31, 1983 .....	October 3, 1984 .....	405 KAR 8:050 § 2; 16:190; 18:190.
October 12, 1984 .....	March 4, 1985 .....	405 KAR 7:020 § 1(87), (118), .030 § 3(1)(e).
August 3, 1984 .....	May 30, 1985 .....	KRS Chapter 350, .032, .060, .135, .990; 405 KAR 16:020.
August 29, 1985 .....	November 20, 1985 .....	Paragraph D of "Field Enforcement Procedures" in § II of the State program plan; 405 KAR 7:090 §§ 11(2)(a), 12(3); 24:030 defining "substantial legal and financial commitments".
December 4, 1984 .....	December 10, 1985 .....	405 KAR 7:070; 16:120; 18:120.
June 6, 1984, December 17, 1985 .....	January 24, 1986 .....	405 KAR 1:015; 3:015; 7:015.
August 13, 1985 .....	March 3, 1986 .....	405 KAR 7:020, .080; 8:030, .040; 12:010, .020; 16:050, .110, .130, .170; 18:050, .110, .130, .170; 20:030.
September 16, 1985, December 10, 1985 .....	March 17, 1986 .....	405 KAR 7:015; 10:030.
December 10, 1985 .....	April 4, 1986 .....	405 KAR 7:090, § 11(2)(a).
December 3, 1985 .....	April 9, 1986 .....	405 KAR 7:020E; 8:050E; 20:070E.
August 3, 1984 .....	May 27, 1986 .....	KRS 350.066 through .070; 405 KAR 10:035.
April 29, 1986 .....	July 15, 1986 .....	KRS Chapter 350 contained in Senate Bills 130, 374; KRS 350.470 through .550 contained in House Bill 285; KRS 350.060(22) contained in House Bill 757; KRS 350.990 contained in House Bill 839.
August 30, 1985, September 16, 1985, February 7, 1986 .....	August 27, 1986 .....	405 KAR 7:020, .060; 8:030, .040, .050; 16:010, .060, .080, .190; 18:060, .080, .190; 20:040, .070; documents incorporated by reference: "Soil Conservation Service, Kentucky Standards and Specifications for Land Restoration, Currently Mined Prime Farmland;" "Kentucky Prime Farmland Revegetation and Crop Production After Mining;" "Estimated Crop Yields on Prime Farmland Soils in Western Kentucky Coalfields;" "Estimated Crop Yields on Prime Farmland Soils in Eastern Kentucky Coalfields".
September 5, 1986 .....	March 9, 1987 .....	405 KAR 10:200.
February 27, 1987 .....	December 31, 1987 .....	405 KAR 16:060 § 11; 18:060 § 11, .190 § 2.
June 17, 1987 .....	March 10, 1988 .....	405 KAR 7:070.
April 29, 1988 .....	October 6, 1988 .....	405 KAR 7:090.
May 28, 1987 .....	October 7, 1988 .....	KRS 350.032 contained in House Bill 869.
July 5, 1989 .....	December 15, 1989 .....	405 KAR 8:010, .020, .030, .040; 24:040.
April 29, 1986 .....	April 9, 1990 .....	KRS 350.032.
April 21, 1988 .....	August 10, 1990 .....	KRS 350.020, .060, .064, .093, .130, .131, .151.
August 15, 1989 .....	November 1, 1990 .....	405 KAR 8:010 § 20(3), (5).
July 15, 1988 .....	December 31, 1990 .....	405 KAR 7:015, .020, .030, .090; 8:010, .020, .050; 10:010, .020, .030, .040, .050; 16:010, .070, .080, .100, .110, .120, .150, .190; 18:010, .070, .080, .100, .110, .120, .150, .190; 20:010, .060; 24:020, .030, .040.
May 8, 1990 .....	February 6, 1991 .....	KRS chapter 350 contained in Senate Bill 255; 350.010, .053, .054, .057, .060, .070, .085, .090, .093, .110, .113, .130, .139, .151, .990; 224.083.
January 9, 1991 .....	April 16, 1991 .....	405 KAR 10:040 § 2(4)(b)1.
January 24, 1991 .....	September 23, 1991 .....	405 KAR 7:020 § 1; 8:010 §§ 13(4), (5), 18(5), 25(1) through (4), .030 §§ 1(4), 2, 3, .040 §§ 1(3), 2, 3; 12:020 § 3(6).
June 28, 1991 .....	April 15, 1992 .....	405 KAR 7:080.
September 18, 1989 .....	August 18, 1992 .....	405 KAR 10:200; KRS 350.710–710.
June 28, 1991 .....	October 1, 1992 .....	405 7:001, § 1, .015 § 4(6), (7), .020, .021, § 1, .030 § 3(1) through (4), .035, §§ 1 through 9; 8:001 § 1, .020 §§ 1, 1(1), (2)(c), 2, (1), (2)(g), 4, 4(c)(5); 10:001 § 1, .200 §§ 1, 2, 4(4), 5(3), 6(1), (2), 7(1), (d), (e), (f), (j), (2), (d), (e), (i); 12:001 § 1; 16:001 § 1, .190 § 7(2), .210 §§ 1(1), 2, 3, 4; 18:001 § 1, .190 § 5(2), .220 §§ 1(1), 2, 3, 4; 20:001 § 1, .010 §§ 2, 3, 4; 24:001 § 1.
March 13, 1992 .....	December 9, 1992 .....	405 KAR 8:030(20), (36), .040(20), (36); 16:180(1), (2), (3); 18:180(1), (2), (3).
July 30, 1992 .....	December 17, 1992 .....	KRS Chapter 350 §§ 350.550, .553, .560, .597.

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Original amendment submission date	Date of final publication	Citation/description
June 28, 1991 .....	January 12, 1993 ...	405 KAR 8:010 §§ 5(1)(c), (d), 12(1)(a), 14(8), 20(2)(a)10, (3)(a), (d)23, (f), 20(5) through (7).
July 30, 1992 .....	March 26, 1993 .....	KRS Chapter 350 contained in House Bill 844 and Senate Bill 381; 350.010, .0281, .130(1), .260, .450(4)(c), .705(1) (b), (c); numerous other sections on "applicant," "permit applicant," "permittee," "person," "operator".
June 28, 1991 .....	June 8, 1993 .....	405 KAR 16:200, 18:200, TRM No. 19 (Field Sampling Techniques for Determining Ground Cover, Productivity, and Stocking Success of Reclaimed Surface Mined Lands), the use of average county yield data found in Kentucky Agricultural Statistics, a report published annually by the Kentucky Agricultural Statistics Service.
July 28, 1992 .....	August 6, 1993 .....	KRS 350 contained in Senate Bill 318; 405 KAR 7:001, 7:090, :091, :092; 8:001; 12:020.
July 21, 1992 .....	October 1, 1993 .....	405 KAR 1:007, 3:007, 7:030 § 4.
May 21, 1993 .....	February 24, 1994 ..	405 KAR 10:050 Statutory and regulatory citations, sections Necessity and Function, 1(1), 2(4), (5); 12:001 section Necessity and Function, (29), (30); 12:010 Statutory and regulatory citations, sections Necessity and Function, 3(2), (5)(a), (b), 4(1), (3).
June 28, 1991 .....	May 26, 1994 .....	405 KAR 8:030 §§ 1(4)(a), (b), 2(3), (4), (5)(a), (11), (12), 3(5), 4(2), 5(4), 10, 37-MRP, 38-MRP; 8:040 §§ 1(3)(a), (b), 2(3), (4), (11), (12), 3(5), 4(2), 5(4), 10, 37-MRP, 38-MRP.
April 26, 1994 .....	September 1, 1994	405 KAR 7:080 sections Necessity and Function, 1, 3, 4, 5, 6(4), (5), (8)(b), 7(1)(b), (3), 8, 10(2) (a), (b), 11(1), (d), (e).
April 18, 1994 .....	September 16, 1994	KRS 350.010, 350(1) through (32).
October 3, 1994 .....	February 15, 1995 ..	405 KAR 7:080 §§ 5(2), (a), (b), 6, 8(2)(a)(11), (b)(11), 11(1), (e).
April 29, 1994 .....	June 27, 1995 .....	KRS 42.470(1)(c); 132; 136; 138; 139; 177.977; 211.390(1), .392(1), (2), (5), (6), (8); 350.010 (1), (2), (9), (16), (22), (23), .0285, .0301(1), (4), .0305, .032(2), (4), .070(1), .085(1), (7), .095(1), (2), .421, (1), (2), .560(1); 351.070(13), (14); 352.420(3).
August 2, 1994 .....	December 7, 1995 ..	405 KAR 16:010 §§ 1, 6, 7, 8; 18:010 §§ 4, 5, 6.
August 15, 1996 .....	August 29, 1997 .....	KRS 350.131(3), 350.150(1), Chapter 350 Section 3, KRS 350.0301(1), 350.990(1).
November 3, 1997 .....	July 31, 1998 .....	Staffing and budget levels.
June 28, 1991 .....	August 4, 1998 .....	405 KAR 16:200 § 1(7)(b) and 18:200 § 1(7)(b).
April 23, 1998 .....	May 10, 2000 .....	KRS 350.060(16) [partial approval]; 350.131(2); 350.139(1); 350.990 (1), (3), (4), (9), and (11).
May 9, 2000 .....	June 20, 2001 .....	House Bill 599, subsection (1).
May 4, 1999 .....	December 26, 2001	KAR 10:010 Sections 2(2), 5(1), 5(2) and bond forms SME-42(6/99 ed.) and SME-42-F(6/99 ed.)
December 22, 1998 ..	February 5, 2002 ....	405 KAR 7:097 approved (in-kind reclamation)
May 9, 2000 .....	April 30, 2002 .....	House Bill 502, part IX, Subsection 36(b), KRS 350.085(6).
January 25, 2001 .....	May 7, 2002 .....	405 KAR 18:210, Sections 1(4), 2(2), and 3(4).
January 28, 2000 .....	June 19, 2002 .....	405 KAR 20:060 § 3(3)(b) 2000 and (c).
April 25, 2002 .....	November 6, 2002 ...	2002 HB 809, Kentucky Revised Statutes at Chapter 350.
May 9, 2000 .....	January 16, 2003 ...	House Bill 792, KRS 350.445(3) (except for a portion of (3)(g)).
June 25, 2002 .....	May 8, 2003 .....	KAR 16:090 Sections 1(1), (2), 4, 5(2) and (6) and 18:090 Sections 1(1), (2), 4, 5(2) and (6).
July 30, 1997 .....	July 17, 2003 .....	405 KAR 8:001 section 1(50); 16:001 section 1(50), (51), (69); 16:090 sections 1 through 5; 16:100 section 1(1),(3),(5),(6),(10), section 2(1); 16:160 section 1(1),(2),(3), section 2(2), section 3(1),(3), section 4; 18:001 section 1(52), (53), (72); 18:090 sections 1 through 5; 18:100 section 1(1),(3),(5),(6),(10), section 2(1); and 18:160 section 1(1),(2),(3), section 2(2), section 3(1),(3) and section (4).
July 30, 1997 .....	August 11, 2004 .....	405 KAR 8:001 Section 1(3), (20), (24), (46), (60), (65), (69), (86) and (108), Section 2(1) and (2); 405 KAR 8:030 Section 3(3)(d)1, Section 11(2)(a), Section 12(4)(a) and (b), Section 13(1)(b) and (3), Section 14(5), Section 15(5), Section 16, Section 20(3), Section 23(1)(g), Section 24(4)(e), Section 26(3), Section 27(2)(e), Section 32(3)(e), Section 34, Section 37(1)(b), Section 38(1) and (2); 405 KAR 8:040 Section 3(3)(d)1, Section 11(2)(a) and (4)(a), (b), Section 13(1)(b)2 and (3), Section 14(5), Section 15(5), Section 16, Section 20(3), Section 26, Section 32(1)(b)5 and (3)(e), Section 34, Section 37(1)(b), Section 39(1) and (2); 405 KAR 16:001 Section 1(3), (32), (46), (53), (63)- deleted, (81), (98), (99), (108), Section 2(1) and (2), 405 KAR 16:060 Section 1(4)(b), Section 2(2), Section 4(1), Section 8(1)(a), (b), (2)(a)-(e); 405 KAR 18:001 (3), (6), (24), (35), (49), (55), (61), (62)- deleted, (67), (68), (84), (100), (109), Section 2(1) and (2); 405 KAR 18:060 Section 1(4)(b), Section 2(2), Section 4(1), Section 12(1)(a), (b), (2)(a)-(e); 405 KAR 18:210 Section 1(1), (2) and (3), Section (1) and (3), Section 3, Section 4 and Section 5.
May 14, 2004 .....	December 20, 2004	KRS 350.280, subsections (1) (b), (1) (c), 1(e), 1(f), (2), (3), (4); subsections 4(a)-(d), (5), (6), (7) and (8) are deleted.
June 28, 1991 with record material submitted July 29, 2004.	May 3, 2005 .....	405 KAR 16:200 Section 1(7)(a) and (7)(d) and 405 KAR 18:200 Section 1 (7)(a) and (7)(d).

## § 917.16

## 30 CFR Ch. VII (7–1–12 Edition)

Original amendment submission date	Date of final publication	Citation/description
March 28, 2006 ..... September 14, 2009	September 18, 2006 March 9, 2011 .....	Easements of necessity, deletion of outdated language in KRS Chapter 350. 405 KAR 16:140, Disposal of coal mine waste. 405 KAR 18:140, Disposal of coal mine waste.

(b) The Director is deferring his decision on the enforcement provisions of section 720 of the Act from its effective date (October 24, 1992), to the effective date of KRS 350.421(1) and (2) (July 15, 1994).

[62 FR 9942, Mar. 5, 1997]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 917.15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 917.16 Required regulatory program amendments.

(a)–(b) [Reserved]

(c) Pursuant to 30 CFR 732.17, Kentucky is required, prior to implementation of the following statutory amendments, to submit to the Director proposed regulations to implement the amendments, and to receive the Director's approval of the regulations:

(1)–(3) [Reserved]

(d) Pursuant to 30 CFR 732.17, Kentucky is required to submit for OSM's approval the following proposed amendments by the dates specified:

(1)–(4) [Reserved]

(5) [Reserved]

(e) By March 23, 1992, Kentucky shall amend its rules at 405 KAR 8:010 section 13(4)(c) to include violations of Federal regulatory programs and other State regulatory programs, not just violations of KRS chapter 350 and regulations adopted pursuant thereto.

(f)–(g) [Reserved]

(h) By June 14, 1993, Kentucky shall amend its rules at 405 KAR 8:010 section 20(6)(h) by including OSM as one of the parties to be notified of the cabinet's decision to approve or deny the application for an operator change and to require that the regulatory authority be notified when the approved change is consummated.

(i)–(m) [Reserved]

(n) By October 5, 1998, Kentucky shall amend the Kentucky program, or provide a written description of an amendment together with a timetable for en-

actment which is consistent with established administrative or legislative procedures in the State, to delete the term “haul roads” at sections 1(7)(b) of 405 KAR 16:200 and 18:200.

(o) [Reserved]

[50 FR 23687, June 5, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 917.16, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 917.17 State regulatory program amendments not approved.

(a) The amendment to Kentucky's regulations at 405 KAR 16:060 Section 8(4)(c); 18:060 Section 12(4)(c) and 18:210 Section 3(5)(c) which were originally submitted by Kentucky on July 30, 1997 and later amended are disapproved.

(b) The amendment at Kentucky Revised Statute 350.060(22) submitted by Kentucky on May 26, 1982, and the legal opinion (insofar as it relates to this amendment) and Reclamation Advisory Memorandum No. 33 submitted by Kentucky on October 28, 1983, are hereby disapproved effective September 17, 1985.

(c) The amendment to Kentucky's program transferring \$3,840,000 from the Kentucky Bond Pool Fund to the Commonwealth's General Fund for the 2002–2003 fiscal year is not approved.

(d) The addition of the word “abated” to modify the term “violation” in paragraph (4)(a) of section 3 of Chapter 7:090 of Title 405 of the Kentucky Administrative Regulations, as submitted to OSMRE by letter dated April 27, 1988, is hereby disapproved. The effect of the disapproval is to continue the requirement that any person who chooses not to contest the fact of violation (whether abated or not) or the assessment shall pay the assessment in full